

Article - State Government

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§9–122.

(a) The regulations of the Agency shall provide for winning tickets to be drawn at least once a week.

(b) (1) Except as otherwise provided in this subsection, § 10–113.1 of the Family Law Article, § 11–618 of the Criminal Procedure Article, and § 3–307 of the State Finance and Procurement Article, a prize won under this subtitle is not assignable.

(2) If the prize winner dies before the prize is paid, the prize may be paid to the estate of the prize winner.

(3) Under appropriate court order, a prize won under this subtitle may be paid to a person other than the winner.

(4) (i) The right of a person to receive payment under a prize that is paid in installments over time by the Agency may be voluntarily assigned as a whole or in part, if the assignment is made to a person designated in accordance with an order of the circuit court in the county where the headquarters of the Agency is located.

(ii) A circuit court specified under subparagraph (i) of this paragraph may hear petitions for approval of voluntary assignments.

(iii) On the filing by the assignor or the assignee in the circuit court of a petition seeking approval of a voluntary assignment, the court shall issue an order approving a voluntary assignment and directing the Agency to make prize payments as a whole or in part to the assignee if the court finds that:

1. the assignment is in writing, is executed by the assignor, and is by its terms subject to the laws of this State;

2. the assignor provides a sworn affidavit attesting that the assignor is of sound mind, is in full command of the assignor's faculties, and is not acting under duress;

3. the assignor has been advised about the assignment by an independent attorney who is not related to and not compensated by the assignee or an affiliate of the assignee;

4. the assignor has received independent financial or tax advice concerning the effects of the assignment from an attorney or other professional who is unrelated to and is not compensated by the assignee or an affiliate of the assignee;

5. the assignor understands that the assignor will not receive the prize payments or parts of payments during the years assigned;

6. the assignor understands and agrees the Agency, Commission, and officials and employees of the Agency are not liable or responsible for making any of the assigned payments;

7. the assignee provides the assignor with a one-page disclosure statement that sets forth in bold type not less than 14 points in size the payments being assigned by amount and payment date, the purchase price, the rate of discount to present value assuming daily compounding and funding on the contract date, and any origination or closing fee that will be charged to the assignor; and

8. the contract of assignment expressly states that the assignor has 5 business days after signing the contract to cancel the assignment.

(iv) 1. Written notice of the petition and proposed assignment and any court hearing concerning the petition and proposed assignment shall be given to the Agency's counsel at least 30 days before a court hearing.

2. The Agency need not appear in or be named as party to an action that seeks judicial approval of an assignment but may intervene as of right in the action.

3. A certified copy of a court order approving a voluntary assignment shall be given to the Agency not later than 60 days before the date on which the payment is to be made.

(v) Beginning October 1, 2006, the Agency, not later than 30 days after receiving a certified copy of a court order approving a voluntary assignment, shall send the assignor and the assignee written confirmation of:

1. the court-approved assignment; and

2. the intent of the Agency to rely on the assignment in making payments to the assignee named in the order.

(vi) A voluntary assignment may not include or cover payments or parts of payments to the extent that the payments are subject to child support payments, criminal restitution, or bankruptcy proceedings as of the date of the court order approving a voluntary assignment.

(vii) 1. The Agency, the Commission, and officials and employees of the Agency are not liable under this paragraph after payment of an assigned prize is made.

2. The assignor and assignee shall hold harmless and indemnify the Agency, the Commission, and the State and its employees and agents from all claims, suits, actions, complaints, or liabilities related to the assignment.

(viii) 1. The Agency may establish a reasonable fee to defray administrative expenses associated with assignments made under this section, including a processing fee imposed by a private annuity provider.

2. The amount of the fee shall reflect the direct and indirect costs of processing assignments.

(ix) 1. A contract of assignment in which the assignor is a lottery winner shall include a sworn affidavit in a form that the Agency provides and the assignee completes.

2. Until the Agency provides the form, an assignee may use its own form that includes the information required in subsubparagraph 3 of this subparagraph.

3. The affidavit shall include:

A. a summary of assignee contacts with the winner;

B. a summary of any complaints, lawsuits, claims, or other legal actions from lottery winners regarding conduct of the assignee or its agents;

C. a statement that the assignee is registered to do business in the State and is in good standing with the Department of Assessments and Taxation and any other licensing or regulatory unit whose approval is required in the conduct of the assignee's business;

D. a brief business history of the assignee;

E. a description of the business of the assignee; and

F. a statement of the assignee's privacy and nonharassment policies and express affirmation that the assignee has followed those policies in the State.

4. The affidavit shall be provided only by the assignee who enters into the contract with the lottery winner or the estate of a lottery winner.

(x) The assignee shall notify the Agency of its business location and mailing address for payment purposes and of any change in location or address during the entire course of the assignment.

(xi) An assignment may be made by a husband and wife who are co-owners of a prize only if they jointly assign the prize to an assignee.

(xii) 1. A court order or a combination of court orders under this section may not require the Agency to divide a single prize payment among more than three different persons.

2. This section does not prohibit the substitution of assignees as long as there are not more than three assignees at any one time for any one prize payment.

3. Any subsequent assignee is bound as the original assignee by the provisions of this section and the terms and conditions of the contract of assignment.

(xiii) If the Internal Revenue Service or a court of competent jurisdiction issues a determination letter, revenue ruling, or other public document declaring that the voluntary assignment of prizes will affect the federal income tax treatment of lottery prize winners who do not assign their prizes:

1. within 15 days after the Agency receives the letter, ruling, or other document, the Director of the Agency shall file a copy of it with the Attorney General; and

2. a court may not issue an order authorizing a voluntary assignment under this paragraph.

(xiv) This paragraph shall prevail over any inconsistent provision in § 9-406 of the Commercial Law Article.

(xv) A contract or agreement made or entered into on or before May 31, 2006, that purports to voluntarily assign or grant an interest in prize payments is void.

(c) The Director may establish by regulation the amount a licensed agent may pay in cash game prizes.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Financial institution” has the meaning stated in § 13–301 of the Estates and Trusts Article.

(iii) “Guardian” has the meaning stated in § 13–101 of the Estates and Trusts Article.

(iv) “Member of the minor’s family” has the meaning stated in § 13–301 of the Estates and Trusts Article.

(2) If a minor wins a prize of less than \$5,000, the Director may give a draft, as provided for in rules and regulations of the Agency payable to the order of the minor, to:

(i) an adult member of the minor’s family; or

(ii) a guardian of the minor.

(3) If a minor wins \$5,000 or more, the Director may deposit the prize in a financial institution to the credit of one of the following, as custodian for the minor:

(i) an adult member of the minor’s family; or

(ii) a guardian of the minor.

(4) A custodian under paragraph (3) of this subsection has the same powers and duties as a custodian under the Maryland Uniform Transfers to Minors Act.

(e) On payment of a prize in accordance with this section, the Director is discharged of all liability.

(f) (1) A prize winner shall claim a prize within 182 days after the drawing in which the prize is won.

(2) Except as provided in paragraph (3) of this subsection, the Director shall keep an unclaimed prize:

(i) for 182 days after the drawing in which the prize is won, for payment of the winner; and

(ii) then in an unclaimed prize fund for use for other prizes.

(3) For a game that the Agency designates as a bonus game or drawing and that is not a daily or weekly State lottery drawing, the period for claiming a prize may differ from the period set in paragraph (2) of this subsection.

(g) (1) Unless otherwise specifically provided by the laws of the State, and except for prizes paid for any multistate lottery game, the State and every officer, department, agency, board, commission, or other unit of State government may not raise the defense of sovereign immunity in the courts of the State in an action in contract brought by an annuitant or prize winner that is based on the liability of the State to pay an annuitant or prize winner the prize that the annuitant is entitled to receive in accordance with this subtitle and any regulations adopted under this subtitle.

(2) Notwithstanding any other provision of law, the State may raise the defense of sovereign immunity to a contract action brought by an annuitant or prize winner of any multistate lottery game, for any claim that exceeds \$200,000.

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